



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket No. 52-016; NRC-2008-0250]

UniStar Nuclear Energy

Combined License Application for Calvert Cliffs Power Plant, Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in a response to a November 19, 2013, request from UniStar Nuclear Energy (UNE), on behalf of Calvert Cliffs Nuclear Project, LLC and UniStar Nuclear Operating Services, LLC which requested an exemption from Final Safety Analysis Report (FSAR) updates included in their Combined License (COL) application. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption, but stipulated that the updates to the FSAR must be submitted prior to, or coincident with, the resumption of the COL application review or by December 31, 2014, whichever comes first.

ADDRESSES: Please refer to NRC-2008-0250 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2008-0250**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact

the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Surinder Arora, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1421 or e-mail: Surinder.Arora@nrc.gov.

1.0 Background

UniStar Nuclear Energy (UNE), on behalf of Calvert Cliffs Nuclear Project, LLC and UniStar Nuclear Operating Services, LLC, submitted to the NRC a COL application for a single unit of AREVA NP's U.S. EPR in accordance with the requirements of Subpart C of Part 52 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Licenses, Certifications, and Approvals for Nuclear Power Plants." This reactor is to be identified as Calvert Cliffs Nuclear Power Plant, Unit 3 (CCNPP Unit 3), and is to be located in Calvert County, Maryland. The NRC docketed Part 2, "Final Safety Analysis Report (FSAR)" of the CCNPP Unit 3 COL application on June 3, 2008. The CCNPP Unit 3 COL application incorporates by reference AREVA NP's application for a standard design certification for the U.S. EPR. The NRC is currently

performing concurrent reviews of the CCNPP Unit 3 COL application, as well as AREVA NP's application for design certification of the U.S. EPR. UNE previously requested an exemption on November 2, 2012, pursuant to 10 CFR 50.71(e)(iii) to submit the scheduled 2012 FSAR update, and proposed, for approval, a new submittal deadline of March 29, 2013. The NRC granted the exemption as described in *Federal Register* notice published on January 8, 2013 (79 FR 4467).

2.0 Request/Action

The regulations specified in 10 CFR 50.71(e)(3)(iii) require that an applicant for a COL under 10 CFR Part 52 shall, during the period from docketing of a COL application until the Commission makes a finding under 10 CFR 52.103(g) pertaining to facility operation, submit an annual update to the application's FSAR, which is a Part 2 of the COL application.

On April 9, 2013, UNE submitted Revision 9 to the COL application, including updates to the FSAR. Revision 9 was provided to satisfy the applicant's requested exemption of November 2, 2012, pursuant to 10 CFR 50.71(e)(3)(iii), and the next annual update was due by the end of December 2013.

On November 19, 2013, UNE requested a one-time exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the scheduled 2013 update, and proposed for approval a new submittal deadline in calendar year 2014 (within 90 days of the submittal date of the U.S. EPR FSAR, Revision 6, but not later than December 31, 2014) for the next FSAR update. The U.S. EPR FSAR Revision 6 has been submitted. However, the request is being reviewed for acceptance of the later date (i.e., the end of 2014).

The requested exemption is a one-time schedule change from the requirements of 10CFR 50.71(e)(3)(iii). The exemption would allow UNE to submit the next FSAR update at a later date. The current FSAR update schedule could not be changed, absent the exemption.

UNE requested the exemption by letter dated November 19, 2013 (ADAMS Accession No. ML13324B041). UNE submitted a supplement to its November 19, 2013, letter that revised the schedule for submission of the next updated CCNPP Unit 3 FSAR by letter dated March 21, 2014 (ADAMS Accession No. ML14086A326). Documents related to this action, including the application for amendment and supporting documentation, are available online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access ADAMS, which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are ML14141A472 and ML14142A349.

3.0 Discussion

Pursuant to 10 CFR 50.12, the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, including Section 50.71(e)(3)(iii) when: (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if: (1) "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule (10 CFR 50.12(a)(2)(ii)); or (2) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation" (10 CFR 50.12(a)(2)(v)).

The requested one-time schedule exemption to defer submittal of the next update to the CCNPP Unit 3 COL application FSAR would provide only temporary relief from the regulations of 10 CFR 50.71(e)(3)(iii).

Authorized by Law:

The exemption is a one-time schedule exemption from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow UNE to submit the next CCNPP Unit 3 COL application FSAR update in calendar year 2014 (within 90 days of the submittal date of the U.S. EPR FSAR, Revision 6, but in no case later than December 31, 2014). Per 10 CFR 50.12, the NRC staff has determined that granting UNE the requested one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) will provide only temporary relief from this regulation and will not result in a violation of the Atomic Energy Act of 1954, as amended, or the NRC's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety:

The underlying purpose of 10 CFR 50.71(e)(3)(iii) is to provide for a timely and comprehensive update of the FSAR associated with a COL application in order to support an effective and efficient review by the NRC staff and issuance of the NRC staff's safety evaluation report. The requested exemption is solely administrative in nature, in that it pertains to the schedule for submittal to the NRC of revisions to an application under 10 CFR Part 52, for which a license has not been granted. Based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption; thus, neither the probability, nor the consequences, of postulated accidents are increased. Therefore, there is no undue risk to public health and safety.

Consistent with Common Defense and Security:

The requested exemption would allow UNE to submit the next FSAR update in calendar year 2014 (within 90 days of the submittal date of the U.S. EPR FSAR, Revision 6, but, in no case later than December 31, 2014). This schedule change has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances:

Special circumstances, in accordance with 10 CFR 50.12(a)(2), are present whenever: (1) "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule" (10 CFR 50.12(a)(2)(ii)); or (2) "The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation" (10 CFR 50.12(a)(2)(v)).

The underlying purpose of 10 CFR 50.71(e)(3)(iii) is to provide for a timely and comprehensive update of the FSAR associated with a COL application in order to support an effective and efficient review by the NRC staff and issuance of the NRC staff's safety evaluation report. As discussed above, the requested one-time exemption is solely administrative in nature, in that it pertains to a one-time schedule change for submittal of revisions to an application under 10 CFR Part 52, for which a license has not been granted. The requested one-time exemption will permit UNE time to carefully review the most recent revisions of the U.S. EPR FSAR, and fully incorporate these revisions into a comprehensive update of the FSAR associated with the CCNPP Unit 3 COL application. This one-time exemption will support the NRC staff's effective and efficient review of the COL application when resumed, as well as issuance of the safety evaluation report. For this reason, application of 10 CFR 50.71(e)(3)(iii) in the particular circumstances is not necessary to achieve the underlying purpose of that rule. Therefore, special circumstances exist under 10 CFR 50.12(a)(2)(ii). In addition, special circumstances are also present under 10 CFR 50.12(a)(2)(v) because granting a one-time exemption from 10 CFR 50.71(e)(3)(iii) would provide only temporary relief, and UNE has made good faith efforts to comply with the regulation by submitting Revision 9 to the COL application on April 9, 2013. This COL application revision incorporated changes resulting from Revision 4 of the U.S. EPR FSAR and COLA changes resulting from UNE's responses to the NRC

requests for additional information submitted through December 2012. For the above reasons, the special circumstances required by 10 CFR 50.12(a)(2) for the granting of an exemption from 10 CFR 50.71(e)(3)(iii) exist.

Eligibility for Categorical Exclusion from Environmental Review:

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25). Under 10 CFR 51.22(c)(25), granting of an exemption from the requirements of any regulation of 10 CFR Chapter 1 [which includes 10 CFR 50.71(e)(3)(iii)] is an action that is a categorical exclusion, provided that:

- (i) There is no significant hazards consideration;
- (ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;
- (iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;
- (iv) There is no significant construction impact;
- (v) There is no significant increase in the potential for or consequences from radiological accidents; and
- (vi) The requirements from which an exemption is sought involve:
 - (A) Recordkeeping requirements;
 - (B) Reporting requirements;
 - (C) Inspection or surveillance requirements;
 - (D) Equipment servicing or maintenance scheduling requirements;
 - (E) Education, training, experience, qualification, requalification or other employment suitability requirements;
 - (F) Safeguard plans, and materials control and accounting inventory scheduling

requirements;

(G) Scheduling requirements;

(H) Surety, insurance or indemnity requirements; or

(I) Other requirements of an administrative, managerial, or organizational nature.

The requirements from which this exemption is sought involve only (B) Reporting requirements; or (G) Scheduling requirements of those required by 10 CFR 51.22(c)(25)(vi).

The NRC staff's determination that each of the applicable criteria for this categorical exclusion is met as follows:

I. 10 CFR 51.22(c)(25)(i) There is no significant hazards consideration.

Staff Analysis: The criteria for determining if an exemption involves a significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a schedule change regarding the submission of an update to the application for which the licensing review is currently underway. Therefore, there are no significant hazard considerations because granting the proposed exemption would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

II. 10 CFR 51.22(c)(25)(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

Staff Analysis: The proposed action involves only a schedule change, which is administrative in nature, and does not involve any changes in the types or significant increase

in the amounts of effluents that may be released offsite.

III. 10 CFR 51.22(c)(25)(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure.

Staff Analysis: Since the proposed action involves only a schedule change, which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

IV. 10 CFR 51.22(c)(25)(iv) There is no significant construction impact.

Staff Analysis: The proposed action involves only a schedule change which is administrative in nature. The application review is underway and no license will be issued prior to receipt of the aforementioned application's December 31, 2014, submittal of the revised FSAR; therefore, the proposed action does not involve any construction impact.

V. 10 CFR 51.22(c)(25)(v) There is no significant increase in the potential for or consequences from radiological accidents.

Staff Analysis: The proposed action involves only a schedule change which is administrative in nature and does not impact the probability or consequences of accidents.

VI. 10 CFR 51.22(c)(25)(vi) The requirements from which this exemption is sought involve only (B) Reporting requirements, or (G) Scheduling requirements.

Staff Analysis: The exemption request involves requirements in both of these categories because it involves submitting an updated COL FSAR by December 31, 2014 and also relates to the schedule for submitting COL FSAR updates to the NRC.

4.0 Conclusion

The NRC has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances exist under 10 CFR 50.12(a)(2)(ii). The requested one-time exemption will permit UNE time to carefully review the most recent revisions of the U.S. EPR FSAR, and fully incorporate these revisions into a comprehensive update of the FSAR associated with the CCNPP Unit 3 COL application. This one-time exemption will support the NRC staff's effective and efficient review of the COL application when resumed, as well as issuance of the safety evaluation report. Therefore, the NRC hereby grants UNE a one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) pertaining to the CCNPP Unit 3 COL application to allow submittal of the next FSAR update in calendar year 2014 (within 90 days of the submittal date of the U.S. EPR FSAR, Revision 6, but in no case later than December 31, 2014).

Pursuant to 10 CFR 51.22, the NRC has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant impact on the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 27th day of August, 2014.

For The Nuclear Regulatory Commission.

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